

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

MARIE AND RAY WISTER,
Plaintiffs,
v.
ELI LILLY AND COMPANY,
Defendant.

No. C-05-5095 MMC

**ORDER CONTINUING CASE
MANAGEMENT CONFERENCE;
DIRECTING PLAINTIFFS TO FILE
STATEMENT RE: MDL**

Before the Court is plaintiffs' Case Management Conference Statement, filed March 3, 2006, by which plaintiffs seek to continue the March 10, 2006 case management conference in the instant action by approximately 120 days. Plaintiffs state that a continuance is necessary because they anticipate the instant action will be transferred to the Eastern District of New York for inclusion in MDL No. 1596, In re Zyprexa Products Liability Litigation, and because they have not yet served the defendant.

There is no indication in the docket or in plaintiffs' statement that plaintiffs have taken any steps to notify the Judicial Panel on Multidistrict Litigation of the existence of the instant action.¹ Consequently, plaintiffs have not shown good cause for the requested

¹ In their proposed order, plaintiffs begin one sentence with the following phrase: "In the event the case is transferred to the Honorable Claudia Wilken and/or the Eastern District of New York[.]" Plaintiffs make no reference to Judge Wilken in their Case

1 120-day continuance. Nevertheless, because the instant action was filed December 9,
2 2005, and the deadline to serve defendant is April 8, 2006, see Fed. R. Civ. P. 4(m), the
3 Court will continue the case management conference to May 12, 2006 at 10:30 a.m.

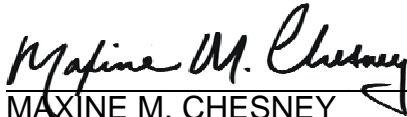
4 Accordingly,

5 1. The March 10, 2006 case management conference is hereby continued to
6 May 12, 2006 at 10:30 a.m. A joint case management statement shall be filed no later than
7 May 5, 2006. The deadline to serve the defendant, pursuant to Rule 4(m) of the Federal
8 Rules of Civil Procedure, remains in effect.

9 2. No later than March 17, 2006, plaintiffs shall file a statement with the Court
10 identifying the steps plaintiffs have taken to date to transfer the instant action to the Eastern
11 District of New York for inclusion in MDL No. 1596, In re Zyprexa Liability Litigation, and/or
12 to have the instant action related to any other action.

13 **IT IS SO ORDERED.**

14 Dated: March 3, 2006

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16 MAXINE M. CHESNEY
17 United States District Judge
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27 Management Conference Statement, let alone provide any indication that any
28 administrative motion has been filed with respect to whether the instant action should be
related to a case pending before Judge Wilken. See Civil L.R. 3-12(b).